

SECRET

see note

314

LPH

MEMORANDUM FOR MR. HOUSTON

27 October 1950

SUBJECT: Use of Prisoners of War

OGC HAS REVIEWED.

1. This memorandum is in reply to your verbal request concerning changes relative to the treatment of prisoners of war made by the Geneva Convention of 12 August 1949. Your specific request concerned the possible use of prisoners of war on intelligence missions.

2. The following pertinent provisions are taken from the section on prohibited labor in the Geneva (Prisoners of War) Convention of 27 July 1929:

Article 31

"Labor furnished by prisoners of war shall have no direct relation with war operations. It is especially prohibited to use prisoners for manufacturing and transporting arms or munitions of any kind, or for transporting material intended for combatant units."

Article 32

"It is forbidden to use prisoners of war at unhealthful or dangerous work."

The Articles quoted above probably caused the controversy regarding OSS activities in the last war.

3. Article 31 has no counterpart in the 1949 document. However, a qualifying phrase has been inserted in the equivalent of Article 32, as follows:

Article 52

"Unless he be a volunteer, no prisoner of war may be employed on labor which is of an unhealthy or dangerous nature."
(Emphasis ours).

On the surface at least, Article 52 would permit use of prisoners of war on intelligence missions, provided they volunteer.

4. One possible restriction found in the 1949 Convention follows:

Article 23

"No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations."

SECRET

This is only a possible restriction, in my opinion, because Article 23 is listed merely as a "general observation" regarding internment of prisoners of war. The apparent intent of the section in which Article 23 is found is to make certain prisoner of war camps are located in safe and sanitary surroundings. On the other hand, Article 52 pertains to the labor for which a prisoner of war may be used, which should make it controlling.

5. Since your request was merely for the actual changes in the wording of the pertinent provisions, I have not ascertained the reasons for the changes, the Nations responsible for the changes, etc. However, I shall be happy to do this at any time.

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This looks very helpful, and, if the question ever comes up, we should be able to resolve it quickly. If you can find any background material that would in any way clarify the changes and indicate intent, a memo for the files might be very helpful. There is, I hope, no hurry whatsoever. LPH

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